



## **IFES Quarterly Report: October 1 – December 31, 2004**

### **Nigeria**

#### **Assistance to the Independent National Electoral Commission (INEC)**

**USAID Cooperative Agreement No. DGC A-00-01-000400-00**

**Project Period: March 7, 2002 – April 30, 2005 (as approved 2/16/05)**

**Total Budget: \$4,797,630 Expenses Recorded to Date: \$4,557,819**

#### **Results summary**

- Draft Electoral Law
- AEA Conference
- Disability Seminar
- INEC Media Outreach

#### **Background:**

Working under this agreement, which began in 2002, IFES has endeavored to promote more professional election administration and the credibility of the electoral process in Nigeria. The federal and state elections of 2003, conducted by Nigeria's Independent National Electoral Commission (INEC), enabled the country's first civilian-to-civilian transition since 1983. The 2003 elections resulted in a landslide victory for the ruling People's Democratic Party (PDP), headed by President Olusegun Obasanjo, in which the PDP retained not only the presidency but increased the number of seats it holds in the National Assembly and State Houses of Assembly, as well as its number of Governorship slots. The election results, however, were contested by the losing political parties. The lengthy elections tribunal process, as well as appeals against decisions, continues, with outcomes in some races still somewhat uncertain. Additionally, domestic and international observers noted numerous shortcomings in the electoral process, particularly with regard to voter secrecy and the accurate transmission and collation of results.

In this post-election period, Nigerian stakeholders are working to continue to strengthen their still-fragile democracy. The Independent National Electoral Commission (INEC) initiated a review process shortly after the elections, which resulted in the identification of the need for significant reforms. Such reforms, if implemented, will greatly contribute to consolidating the transition to democracy, ensuring a more credible electoral framework and that the INEC has the confidence of the Nigerian people as an institution of good governance, capable of administering credible elections in a competitive environment.

#### **Details of the Program**

In November 2003, USAID approved IFES' revised project as was contained in the proposal for the reprogramming of \$1.8 million in remaining funds and the extension of the agreement from December 31, 2003 to February 28, 2005.

The goal of this project is: Enhanced Credibility of the Electoral Process, which is also USAID's IR.11.3 under its Strategic Objective 11 (Strengthened Foundation for Democratic Governance) for its Country Strategy of 2004-2009.

The objectives of the project are:

- Strengthened legal framework for the electoral process;
- Improved strategic and operational planning within INEC;
- Strengthened training capacity of INEC;
- Increased capacity of INEC personnel in election administration;
- More effective use of technology in the conduct of elections; and
- Enhanced capacity of SIECs to conduct local government elections.

## **Activities**

### **1. Capacity Building for INEC**

Objectives: Increased capacity of INEC personnel in election administration.

#### *AEA Seminar in Brighton, UK*

This quarter, IFES organized a study tour for six INEC representatives to attend the UK Association of Electoral Administrators' Annual General Meeting and Seminar in Brighton. IFES sponsored three individuals and INEC sponsored three. INEC representatives met with the Chairman and Chief Executive of the UK electoral commission, senior election officials from the UK and representatives of election supply companies. While in Brighton, INEC representatives took an active role in the various workshops, which enhanced their knowledge of international best practices in election administration.

### **2. Election Law Reform**

Objectives: Strengthened legal framework for the electoral process.

#### *Disability Seminar on the Draft Electoral Bill*

On January 18, 2005, IFES organized an election law seminar for people with disabilities at the Agura Hotel in Abuja. The seminar featured representatives of groups for people with disabilities to consider the draft law and its relevance to the disabilities community. In all, 38 participants attended the workshop from different parts of the country. I.K. Bawa of the INEC legal department also made remarks and answered participant questions.

In the plenary session, speakers and participants made numerous suggestions concerning the provisions for disability access in the draft electoral bill 2004. Break-out sessions

followed, which allowed individual groups to refine and give more detail to the recommendations made in plenary. The INEC representative had to answer more 20 questions from participants following his presentation.

The break-out groups considered whether the bill reflects the needs of people with disabilities in the following areas:

- Access to polling stations
- Priority treatment
- INEC hiring practices
- Sensitivity of language used to describe people with disabilities
- Timing of the vote (identifying a separate day for voters with disabilities)
- Ballot paper design
- Commission employment of a disability officer

The final paper on the resolutions from the group work at the disabled seminar is attached to this report (Appendix C)

#### *Media Seminar on the Law*

On February 25, IFES organized a Media workshop with INEC on the draft law. Over 70 people were in attendance, including over 40 from the media and 30 participants from INEC (Public Affairs, Legal, ICT and members of the IPC Committee). I.K Bawa of the legal department presented a paper entitled ‘An Overview of the Draft Electoral Bill, 2004’, in which he identified numerous faults in the present act. Some of the issues he touched on were:

- Funding of the commission;
- The appointment of the secretary to the commission;
- Voter registration;
- Election day procedures;
- Submission of names by political parties to the commission;
- Electoral broadcasting;
- Election expenses; and
- Disability access.

Members of the media commented that some of the issues in the bill are constitutional matters, and that constitutional amendments should also be proposed by INEC. Most prominently, the issue of composition of INEC was identified as a constitutional issue that should be addressed, with some suggesting that Nigeria should adopt the South African system, in which the judiciary appoints the chairman and members of the commission, who are then approved by the legislature. A further point of concern raised by the media was the overbearing powers of returning officers.

IFES Country Director Charles Lasham made a presentation about IFES; the work undertaken throughout the world and particularly Nigeria; and what an electoral act

should include if a country is serious about organizing elections that meet international standards.

## **Other Activities**

### *DFID Election Law Seminars*

As part of IFES' objective of strengthening the legal framework for the electoral process, IFES supported public discourse on the draft electoral law under funding from the UK Department for International Development (DFID). Following the submission of the bill to the National Assembly, IFES printed 1,500 copies of the draft and assisted INEC in disseminating the law to a wide range of stakeholders. IFES then arranged for two public fora on the draft law, one held on January 25 in Jos and the second on January 27 in Ibadan. Participants in each included: INEC, Assembly representatives, political parties, civil society leaders, the media and academics. In Jos 36 people were present, and in Ibadan 60 persons attended the event. Copies of the recommendations of both seminars are attached to this report (Appendix A & B).

## EVALUATION FRAMEWORK

Results	Indicators	Comments
<b>Program Area 4.1 Reform of the Legal Framework</b>		
<b>Objective 1: Strengthened legal framework for the electoral process.</b>		
1. Recommendations for legal reform are developed by civic and political leaders.	<p>1.1. Participation of key civic and political leaders in IFES-supported workshops.</p> <p>1.2. Specific recommendations for reform of the electoral legislation are developed by participants in IFES-supported workshops.</p> <p>1.3. Recommendations are submitted to INEC and Ministry of Justice for consideration.</p>	<ul style="list-style-type: none"> <li>Ten IFES-supported workshops have been conducted. Over 420 participants attended, including individuals from academia, political parties, civil society, students, and Assembly members, both national and state. <ul style="list-style-type: none"> <li><u>Southwest SIEC Training Program</u>: March 4, 2004</li> <li><u>Political Finance Meeting</u>: March 9, 2004</li> <li><u>IRI/IFES Political Roundtable</u>: March 16, 2004</li> <li><u>Election Funding in Nigeria Roundtable Discussion</u>, University of Jos, Plateau State, March 18, 2004</li> <li><u>Election Systems and Women's Participation in Politics</u>: April 28, 2004</li> <li><u>Election Appeals Review Seminar</u>, May 28, 2004</li> <li><u>Disabilities Seminar on the law</u>, January 18, 2005</li> <li><u>Public Forum on the law</u>, Jos, January 25, 2005</li> <li><u>Public Forum on the law</u>, Ibadan, January 27, 2005</li> <li><u>Media Seminar on the law</u>, February 25, 2005</li> </ul> </li> <li>The Legal Defence Centre, an IFES sub-awardee, conducted a national seminar in May 2004 that produced recommendations on how the election tribunal process can be strengthened.</li> <li>Gender and Development Action, another IFES sub-awardee, conducted a national seminar in April 2004 on the political participation of women in Nigeria's legal reform process. The seminar resulted in a series of recommendations for the review of the Electoral Act.</li> <li>The recommendation by IFES Election Technology Advisers to forego automated voting machines in 2007 was accepted by INEC in June 2004. The Commission does plan to enact and evaluate a pilot scheme for mechanized voting.</li> </ul>
2. Draft legislation includes recommendations of civic and political leaders.	2.1. Degree to which draft legislation includes recommendations made by participants at IFES-supported workshops.	<ul style="list-style-type: none"> <li>To be determined after assessment of the draft law by National Assembly, IFES, and other members of the international community.</li> </ul>
3. Draft legislation includes clear and effective provisions with regard to campaign finance.	3.1. Degree to which IFES recommendations with regard to INEC's responsibilities on party funding and monitoring of party spending are incorporated.	<ul style="list-style-type: none"> <li>IFES undertook a review in April 2004 of the Nigerian Electoral Act of 2002, along with draft reforms by international organizations. The review culminated in a series of recommendations for legal provisions on the</li> </ul>

Results	Indicators	Comments
		issue of political party and campaign finance.
3. INEC public fora encourage review of draft electoral legislation by civic & political leaders.	3.1. Participation of key civic and political leaders in INEC public fora. 3.2. Degree to which specific recommendations on the electoral legislation are presented by participants.	Four IFES-supported public events have been conducted with INEC participation. Specific recommendations have emerged from each of the following events: <ul style="list-style-type: none"> <li>o <u>Disabilities Seminar on the law</u>, January 18, 2005</li> <li>o <u>Public Forum on the law</u>, Jos, January 25, 2005</li> <li>o <u>Public Forum on the law</u>, Ibadan, January 27, 2005</li> <li>o <u>Media Seminar on the law</u>, February 25, 2005</li> </ul>
4. Electoral legislation presented to National Assembly reflects input from civic and political leaders.	4.1. Degree to which electoral legislation includes input from civic/political leaders. <ul style="list-style-type: none"> <li>• The extent to which IFES-supported recommendations are incorporated in the legislation cannot be ascertained until an assessment of the draft law submitted by INEC to the National Assembly.</li> </ul> 4.2. Degree to which electoral legislation includes input from IFES with regard to campaign finance.	To be determined after assessment of the draft law by National Assembly, IFES, and other members of the international community.
<b>Program Area 4.2: INEC Strategic and Operation Planning</b>		
<b>Objective 2: Improved strategic and operational planning within INEC.</b>		
1. INEC develops a Strategic Plan for 2004-2007.	1.1. The Strategic Planning Retreat results in the formulation of a Strategic Plan for 2004-2007, which provides a clear framework for operational planning and which is distributed widely within INEC and to Nigeria's stakeholders.	<ul style="list-style-type: none"> <li>• The Strategic Planning Team commenced work in April 2004 and completed the draft strategic plan in May. IFES offered technical assistance to the Strategic Planning Team and facilitated their activities and meetings as needed.</li> <li>• The draft strategic plan was developed in May 2004 and agreed to by IFES and the Strategic Planning Team. It has been presented to the Senior Management Committee. INEC commissioners met in Port Harcourt in October to reach a final agreement on the contents and to determine an implementation plan.</li> </ul>
2. INEC's utilizes operational plans to guide conduct of activities.	2.1. Key INEC staff are trained in operational planning. 2.2. Operational plans are developed for INEC's major activity areas which support the framework provided by the Strategic Plan. <ul style="list-style-type: none"> <li>• The final draft of the Strategic Plan has been submitted to the operations committee by the strategic planning team that evolved from the IFES supported workshop on SP.</li> </ul> 2.3. INEC develops a mechanism to coordinate the implementation of and to review the operational plans. 2.4. INEC periodically reviews and revises operational plans.	<ul style="list-style-type: none"> <li>• Number of key INEC staff trained in operational planning: 37 <ul style="list-style-type: none"> <li>o <u>Strategic Plan Retreat</u>, Lokoja, March 2004.</li> </ul> </li> <li>• All directors of the commission were present at the workshops, including deputies and assistants.</li> </ul>
<b>Program Area 4.3: Support for Building INEC's Professional Capacity</b>		

Results	Indicators	Comments
<b>Objective 3: Strengthened training capacity of INEC to develop and conduct electoral training for permanent and ad hoc staff.</b>		
1. INEC Training Unit has a clear mandate and structure.	1.1. The mandate and structure of INEC’s Training Unit, including staff roles and responsibilities, is approved by INEC.	<ul style="list-style-type: none"><li>• IFES Training Advisor has worked with INEC Training Unit to provide recommendations on the structure of the Training Unit and training programs for INEC permanent and ad-hoc staff.</li><li>• The Lead Instructor of BEAT III conducted a facilitator training for six INEC staff members in May 2004. Four out of these six conducted BEAT trainings in two States.</li></ul>
2. INEC Training Unit demonstrates capacity to develop an operational plan.	2.1. INEC’s Training Unit develops an operational plan.	
3. INEC Training Unit demonstrates capacity to develop and implement training programs	2.2. INEC’s Training Unit monitors implementation of its plan, adjusting and revising as necessary.	
	3.1. INEC’s Training Unit develops program for training permanent staff.	
	3.2. INEC’s Training Unit works with IFES in training permanent staff.	
4. INEC decentralizes training, through the establishment of training teams on either a State or zonal basis.	3.3. Periodic skills development is included in the operational plan & and an in-country resource is identified to provide training to enhance the skills of trainers in the longer-term.	
	4.1. INEC establishes state/zonal training units, with clear mandate and relationship to Training Unit at headquarters.	
<b>Objective 4: Increased INEC capacity in election administration.</b>		
1. INEC staff and Commissioners demonstrate increased knowledge of electoral administration.	1.1. Participants in IFES training demonstrate ability to apply learnings from training.	<ul style="list-style-type: none"><li>• BEAT III participant evaluations demonstrate increased abilities and skills learned following BEAT course in May-June 2004.</li><li>• INEC Deputy Director of Finance attends British Council seminar on “Tackling Corruption Worldwide,” where international agreements and declarations were discussed. (This activity was funded jointly by the British Council and the IFES TIDE project.)</li><li>• The IFES Political Finance Advisor worked with INEC in March 2004 to establish a working group to prepare new political party finance reporting form and a political party manual.</li><li>• INEC Deputy Director of Finance produced draft reporting forms for political party finance.</li></ul>
2. INEC develops reporting procedures, guidelines, forms and tracking and reporting tools for its use in monitoring spending and to facilitate reporting of spending by parties/candidates.	1.2. Participants in IFES study mission to U.S. elections articulate learnings and identify possible applications for Nigeria.	
	2.1. Reporting procedures, guidelines, etc. are in line with international standards.	
	2.2. Reporting procedures, guidelines, etc. are approved for implementation by the Commission.	
<b>Program Area 4.4: Elections Technology</b>		
<b>Objective 5: More effective use of technology in the conduct of elections.</b>		
1. Recommendations on how INEC can best use technology to support its operations are made.	1.1. IFES/UN elections technology assessment results in clear and time-bound technology recommendations for the particular components of the electoral process.	<ul style="list-style-type: none"><li>• IFES Election Technology advisors provided recommendations in a March 2004 report on how INEC can best use technology to administer elections and how to build upon their current technological capabilities.</li><li>• The recommendation by IFES Election Technology Advisers to forego automated voting machines in 2007 was accepted by INEC in June 2004. The Commission does plan to enact and evaluate a pilot scheme for mechanized voting.</li></ul>
	2.1. Degree to which INEC supports implementation of recommendations.	
<b>Program Area 4.5: State Independent Electoral Commissions (SIECs)</b>		
<b>Objective 6: Enhanced capacity of the State Independent Electoral Commissions (SIECs) to conduct local government elections.</b>		

Results	Indicators	Comments
To be determined following design of activity.		<ul style="list-style-type: none"> <li>● A training session was conducted for SIECs in the South West geopolitical zone on March 4, 2004 in preparation for the March municipal elections.</li> <li>● As a result of the training, the southwest SIECs agreed to conduct the local government elections by accrediting and voting simultaneously, rather than the initial plan by the Oyo SIEC to accredit prior to voting.</li> <li>● At the request of the Anambra SIEC, a condensed BEAT course was held for SIEC officials in August 2004. <ul style="list-style-type: none"> <li>○ Average attendance of 60 participants per session</li> </ul> </li> </ul>



## **APPENDIX A**

### **Group Reports from Jos Public Forum on the INEC Draft Electoral Bill 2004 January 25, 2005**

#### **GROUP 1**

Establishment of INEC;  
Staff of the Commission;  
Register of voters.

##### **Section 2(1)**

Membership of the Commission:

The group agrees that due to the heterogeneity of Nigeria, membership of the Commission should remain 12.

##### **Section. 2(2)**

The age limit should also be retained.

##### **Section 2(3)**

Appointment of chairman and members of the commission:

- Chairman should be a retired Judge of the Supreme Court
- Appointment should be on merit; Post to be advertised and selection be done by the National Assembly; Public hearing should be held on the short-listed candidates.

##### **Section 3(1)**

Tenure of the chairman and members to remain 5 years and not subject to renewal.

Qualification of members of the commission:

- It is proposed that retired High Court Judge, retired Director's or the equivalent as well as University Don (retired) should apply and be subjected to similar selection process as the case with the chairman.

##### **Section 4(b)**

- Registration of Political Parties should not be the concern of INEC.
- INEC should recognise political parties and not be bothered with their registration.

##### **Section 5**

- It is proposed that INEC should source its funds from the Consolidated National Account and not dependable on the Executive arm of Government.
- The group recognise that this is a constitutional matter, but the need to have it actualised is important.

#### Section 8

- (1) It is proposed that INEC should submit the estimate of expenditure and income to the Auditor General of the Federation not later than 31<sup>st</sup> October in each financial year. This is in line with Section 5 above relating to funding.

#### Section 10

It is proposed that the appointment of Residential Electoral Commissioners (RECs) for the states and FCT be as proposed in Section 3 above for members of the Commission i.e. National Commissioners.

- (2) The removal of RECs should not be decided by the Presidency but the National Assembly.

#### Section 14

Appointment of the Secretary of the Commission:

- This should be by the Commission through a process that is transparent and based on merit.

## **GROUP 2**

#### ***Procedure at Election***

1. Section 32.(1) Postponement of election should be within 3 months before the election is held.
2. Section 32 (5) – That there should be a time limit for the adjudication of contestants filing at the court of tribunal.
3. Section 33 (1) – Electoral Officer should not double as Returning Officer. These roles should be separated.

Section 33 (2)(g) There should be a designated point of announcement of election result (collation centre).

Section 33 (3) should be expunged.

Section 35 – A subsection stating that all adhoc staff for election should be thoroughly screened for qualification.

Section 49 – There should be a provision that polling station should not be located in peoples houses or compound. They should be in public places.

The following should be added:

1. Distribution of voters material must reflect the number of voters at polling stations.
2. The draft law should streamline the involvement of law enforcement agencies at elections since they are known to connive with parties in some cases to perpetrate malpractices.

## **GROUP 3**

### **Political Parties**

- (1) Formation of Political Parties should be left unhindered so that parties can have ideological characters that reflect the diversities of the country. Parties should be allowed to rise, survive or disappear on the strength of their appeal to the electorate without the commission banning them expressly.
- (2) Civil Society should take it as a challenge to engage political parties with relay to their Constitutional and social functions.
- (3) There should be comprehensive funding of political parties to avoid frivolous political behaviour such as carpet crossing and emergence of God-fatherism.
- (4) In this regard the National Assembly should be made to mandatorily approve grants to political parties.
- (5) Independent candidates should be allowed at elections.
- (6) The provision on election expenses should be reviewed upward to reflect existing electoral challenges.

## **Group 4**

### ***Electoral Offences and Election Petitions***

- Provisions are adequate but the problems lie with implementation.

## Suggestions

- Independence of the Police and the Police service commission and or;
- An independent body be set up to monitor electoral offences and ensure that offenders are brought to book.

## Determination of Election Petitions arising from Elections.

- There must be a provision on time-frame for commencing and concluding election petitions – S152 & S159 are not adequate
- All petitions should be determined before swearing in.
- All petitions should be determined on their merits irrespective of non joinder or misjoinder of parties – S155(2) is superfluous.
- Emphasis should not be laid on procedural irregularities and technicalities where they exist. Should there be a minor slip, then it should be cured by correction of the petition and not by striking out the petition

## **APPENDIX B**

### **Group Reports from Ibadan Public Forum on the INEC Draft Electoral Bill 2004 January 27, 2005**

## **GROUP 1**

### **Establishment of INEC Staff of the Commission Voters Register**

- An electoral college comprising of one representative of each political party and civil society groups will make nominations of distinguished Nigerians who are not members of any political party and one of these will be chosen as chairman of the commission. This body will choose all other members of the commission.
- Delete S.4(1)(b) but new parties should notify INEC of their existence.
- A special scheme of service which is separate from the civil service structure should be formed for the employment of the staff of the Commission.
- Funds should be released to INEC on time to enable the production of voter's cards with photographs.

## **GROUP 2**

### **Procedure at Election**

1. S.31 of the Draft Electoral Bill: The interval of elections needs to be reconsidered so as to avoid the bandwagon effect as evidenced in the 2003 election. The following order should be considered;
  - (i) Area Council Election
  - (ii) House of Assembly Election
  - (iii) National Assembly Election
  - (iv) Governorship Election
  - (v) Presidential Electionand they should be held on different dates
2. S.33(3) should now read: “The Commission may, as it deems fit, introduce technology applicable to mechanised electronic voting and counting of votes and announce election results as set out in subsection 2 above.
3. S.59 In line with International Standards conduct of polls should be by secret ballot.

## **GROUP 3**

### **Political Parties**

- 1 Section 84. Registration of Parties: Instead of the word Register, the word Recognise should be used
2. Section 90. INEC should not approve the merger of political parties.
3. Section 93. Funding of Political Parties from outside Nigeria: There is need for more explanation from INEC on this section.
4. Section 97. Mandatory Funding for political parties for a specified period e.g. 10 years
5. Section 99. The need to consider the upward review of Presidential Expenditure limits.
6. Provision for Independent candidacy
7. Political Parties to ensure 30% Affirmative Action for all elective, appointive & in all nominations for all sexes.

## ***GROUP 4***

### **Election Offences**

- The punishment for offence should not just be by fines or imprisonment but should go further to affect the capacity of the offending political party or candidate to participate in the election and future elections.
- To ensure that electoral offences when committed are punished in cases where neither INEC nor the police are inclined to prosecute, a private individual should be able to mount a prosecution after obtaining the leave of the High Court.

### **Election Petitions**

Section 155(1) to be amended to include;

1. - 10% of registered voters in the Constituency as those who can present a petition.

#### **Timeliness:**

1. That a subsidiary power be reserved for either the Chief Justice of the Federation or President of the Court of Appeal to make rules of procedure for the tribunals.
2. That elections be conducted six months before inauguration to ensure that all petitions are heard and determined before winners are sworn in.
3. That where minor errors are made in petitions there should be opportunity to amend or remedy those shortcomings rather than using such slips as reasons for striking out the petitions.
4. Judge appointed to serve in the tribunals should be men of proven character and impeccable integrity.



**IFES workshop on “The INEC Draft Electoral Bill 2004 and People with Disabilities”**  
**18 January 2005**  
**Agura Hotel, Abuja**

**FINAL RECOMMENDATIONS**

1. The term legal incapacity should be elaborated on in section 18(1).
2. The sub-title of section 63(1) of the draft Electoral Bill should be redrafted to read “Visually impaired and other voters with disabilities.”
3. In section 63(1) “physical disability” should be replaced by “who suffers from any form of disability.”
4. That the word “may” in section 63(2) of the Electoral Bill should be changed to “shall” and include the words “tactile symbol” after the word “Braille.”
5. INEC should employ a Disabilities Officer, who is a person with disabilities and an expert in the field of disabilities.
6. INEC should employ disability experts at all levels within the organisation, who themselves are persons with disabilities.
7. INEC staff should undergo special training to learn ways to meet the needs of disabled people.
8. Security personnel at polling stations should be trained to recognise the special security needs of persons with disabilities.
9. INEC should design ballot papers to meet the tactile needs of visually impaired voters.
10. INEC should make polling stations accessible to voters with disabilities by provisions of ramps, etc.
11. INEC, during voters’ registration, should make provision for identification of people with disabilities on the voters’ register.



12. Voting materials, resources and personnel that will make the process of voting easier for people with disabilities should be provided.
13. The INEC *Electoral Half Hour* television programme should feature interviews with various disabled people and should include drama and have sign language.